<u>REMARKS</u>

In the outstanding Official Action, claims 1-20 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-24 of U.S. Patent No. 6,704,396. Claims 1-5 and 11-18 were rejected under 35 U.S.C. §102(e) over HOLDEN (U.S. Patent No. 6,771,639). Claims 1-20 were also rejected under 35 U.S.C. §103(a) over LaPORTA et al. (U.S. Patent No. 5,970,122) in view of VO et al. (U.S. Patent No. 6,795,444).

Attached hereto, Applicants are providing a Terminal Disclaimer to disclaim the terminal part of any patent granted on the present application which would extend beyond the expiration date of U.S. Patent No. 6,704,396. Submission of the attached Terminal Disclaimer should not be taken as an indication of Applicants' or the Assignee's acquiescence with the propriety of the obviousness-type double patenting rejection. Rather, Applicants are submitting the attached Terminal Disclaimer merely in order to obtain early allowance of the claims of the present application. In view of the submission of the attached Terminal Disclaimer, Applicants respectfully request reconsideration and withdrawal of the outstanding obviousness-type double patenting rejection of claims 1-20.

Applicants traverse the rejection of claims 1-5 and 11-18 under 35 U.S.C. §102(e) over HOLDEN. In this regard, claim 1 of the present application recites "sending an

interactive text markup programming language script, using a session initiation protocol (SIP) message, to a communications device, the interactive script including at least a first query and a second query that depends on a response to the first query; and receiving the response from the communications device, the response being based upon input from a user of the communications device".

The outstanding Official Action asserts that HOLDEN discloses the above-noted features in FIGs. 1-6, and particularly in FIG. 6. Applicants respectfully submit that the outstanding Official Action is in error. In this regard, HOLDEN discloses, at e.g., the Abstract, that a "first network element can generate a call request including announcement information". HOLDEN additionally discloses, at e.g., col. 2, lines 54-57, that "FIG. 3 illustrates a message according to a Session Initiation Protocol (SIP)... the SIP message including announcement information". Further, HOLDEN discloses that the announcement information may include "media data" such as "markup data (e.g., HTML or XML)" (see col. 5, lines 30-34).

Further, with respect to the teachings of FIGs. 5 and 6, HOLDEN discloses that the "SIP Invite message containing announcement information" is received (col. 8, lines 21-26). Additionally, "[i]f the Invite message includes announcement information, then the cover media routine 402 determines (at 506) the types of cover media included in the message" (col. 8, lines 30-33). Moreover, "(at 508) the type of platform that the network

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element 100 is implemented on" is determined (see col. 8, lines 41-43). Finally, "(at 510) the cover media routine then presents (at S510) the cover media on the appropriate output devices" (col. 8, lines 50-53).

Accordingly, HOLDEN discloses sending text markup programming language data, using a session initiation protocol (SIP) message, to a communications device. However, the text markup programming language data in HOLDEN is not an "interactive script including at least a first query and a second query that depends on a response to the first query", as recited in claim 1. Rather, HOLDEN explicitly discloses at, e.g., the Abstract, that "[t]he announcement information may include identification information (e.g., telephone number or web address) of the calling party and additional information that conveys to the called party some information relating to the desired call session (e.g., description of the content)" . In other words, this information is not a "first query", let alone a "first query and a second query that depends on a response to the first query".

Further, HOLDEN discloses, at e.g., col. 9, lines 10-21 that the recipient of the message may make a request (i.e., request for further information). However, neither the announcement that is sent to the recipient using the SIP message, nor any request from the recipient, includes an "interactive script including at least a first query and a second query that depends on a response to the first query".

Accordingly, Applicants respectfully submit that HOLDEN does not disclose

"each and every" feature recited in claim 1, as would be required for the rejection under 35 U.S.C. §102(e) to be proper. In this regard, if the rejection of claim 1 over HOLDEN is maintained, Applicants respectfully request clarification from the Examiner as to what in HOLDEN he is interpreting as the above noted "interactive script including at least a first query and a second query that depends on a response to the first query".

Applicants further submit that HOLDEN fails to disclose or suggest at least the features of independent claims 11 and 17 that are similar to the above-noted features recited in claim 1. Applicants additionally submit that each of claims 2-5, 12-16 and 18 is allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Applicants additionally traverse the rejection of claims 1-20 under 35 U.S.C. §103(a) over LaPORTA in view of VO. In this regard, Applicants initially submit that there is no proper motivation to modify the teachings of LaPORTA with VO. In particular, with respect to the rejection of claims 1, 6, 11 and 17, the outstanding Official Action admits that LaPORTA does not disclose using session initiation protocol. However, the outstanding Official Action asserts that it would be obvious to modify LaPORTA with the teachings of VO because "LaPorta teaches sending messages over the world wide web" and "Vo teaches sending SIP messages over the world wide web". Applicants respectfully submit that the broad motivation asserted by the Examiner, i.e.,

that it would be obvious to modify the teachings of LaPORTA with the teachings of VO because both teach sending message over the web, is not a proper motivation for one of ordinary skill in the art to modify the teachings of LaPORTA.

Applicants further submit that there is no teaching in the prior art to specifically use session initiation protocol in LaPORTA. In this regard, Session Initiation Protocol (SIP) is a protocol for creating, modifying and terminating sessions with one or more participants. However, there is no suggestion in the prior art to modify LaPORTA to use session initiation protocol. For example, LaPORTA does not admit to any existing difficulty creating, modifying and/or terminating sessions with participants. Furthermore, LaPORTA does not disclose any particular reason to use session initiation protocol, nor does the outstanding Official Action cite such a reason. Nor does VO suggest that it would be particularly useful to provide LaPORTA with SIP messages. Accordingly, Applicants respectfully submit that neither LaPORTA nor VO provides any proper motivation to modify the teachings of LaPORTA with the teachings of VO. Rather, the only motivation to modify LaPORTA in the manner necessary to obtain the invention recited in Applicants' claims is the improper motivation of the Examiner to obtain Applicants' claims in hindsight.

In any case, even the combination of LaPORTA with VO does not disclose or suggest the invention recited in Applicants' claims. In this regard, the messaging

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example shown in FIG. 3 of LaPORTA involves only sending a single message to one or

more users using a "two-way wireless messaging system" (see col. 5, lines 12-15).

However, sending a message, or even a single query, to the one or more users is not the

invention recited in Applicants' claims. Rather, Applicants' independent claim 1 recites

"sending an interactive text markup programming language script... including at least a

first query and a second query that depends on a response to the first query". In this

regard, even if the lunch request in LaPORTA were considered a "first query", a response

to the lunch request is not a "second query that depends on a response to the first query".

In other words, the outstanding Official Action asserts that the response itself is the

second query, whereas claim 1 recites that the second query "depends on a response to the

first query" such that the second query can not logically be the response itself.

Accordingly, Applicants respectfully submit that there is no proper motivation to

modify LaPORTA with the teachings of VO. Further, Applicants respectfully submit that

even the combination of LaPORTA and VO would not obtain the invention recited in

Applicants' claim 1.

Applicants further submit that each of claims 6, 11 and 17 recite, in the claimed

combination, features similar to the above-noted features recited in claim 1 (i.e., the

above-noted features which are not disclosed, suggested or rendered obvious by the

combination proposed in the outstanding Official Action). Accordingly, Applicants

respectfully submit that the inventions recited in claims 6, 11 and 17 are allowable for reasons similar to the reasons noted above for the allowability of the invention recited in claim 1. Applicants further submit that claims 2-5, 7-10, 12-16 and 18-20 are allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so. Applicants have discussed the disclosure of the references relied upon in the Official Action, and have pointed out specific features of the claims not disclosed, suggested or render obvious by the references applied in the Official Action. Accordingly, reconsideration and withdrawal of each of the rejections of claims 1-20 is respectfully requested.

Should there be any comments regarding this Response of the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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